Los A eles County Sheriff's Dep ment
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.? ☐	Hit? ☐
12-31-01	EAST LOS ANGELES		

Incident Information

URN: 401-16987-0287-033	Date: 12-31-01 Time: 0830
City or Station: EAST LOS ANGELES	Nature of Incident: THE [redacted] SUSPECT DROVE TOWARD DEPUTY LEYBA. DEPUTY LEYBA FEARING FOR HIS LIFE SHOT AT THE VEHICLE.
Location: [redacted] S. LEONARD STREET LOS ANGELES	

Location Type (*circle one or more*):	Lighting (*circle only one*):	Incident Type (*circle one or more*):	Initiated by (*circle only one*):
Backyard	Darkness	Accidental	Arrest Warrant
Beach	**(Daylight)**	Armed Person	Call
Business	Other	**(Fleeing Suspect)**	**(Observation)**
Freeway	Street Lights	Foot Pursuit	One Person Unit
Industrial		Gun Take Away	Other
Park	Weather (*circle only one*):	**(Moving Vehicle)**	Search Warrant
Parking Lot	Clear	Sniper/Ambush	Two Person Unit
Residence	**(Cloudy)**	Startle	
Rural	Fog	Struggle Involved	Prior Activity (*circle only one*):
School	Rain	Traffic Stop	Detective
Street		Unarmed Person	Inmate Transport
(Other) ALLEY		Unintentional	Other
	Distance: 5-10 FEET	Vehicle Pursuit	**(Routine Patrol)**
		Warrant Service	
Total # of Shots Fired by Deputy: 4	Total # of Shots Fired by Suspect: 0	Other:	Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*):	ShiftType (*circle only one*):
	NONE			EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name: [redacted]		First Name: [redacted]		M.I.: [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I.: [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I.: NMN	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*):
[redacted]	CUNNINGHAM	KENNETH	J.	**(On Duty)** Present during shooting Witness to shooting Involved in shooting
				On Duty Present during shooting Witness to shooting Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	SAUCEDO	HENRY	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	WAGNER	MARGIE	A.

PSTD Use Only
SH # SH2053430

Officer Involved Shooting

URN: 401-16987-0287-033

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
12-31-01	1030		

Employee #	Last Name	First Name	M.I
[redacted]	HINES	WILLIAM	L.
[redacted]	BERG	MICHAEL	R.
[redacted]	MANNIS	KARYN	J.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Y	Y	NN	
S#1	E#1	OV					NN	

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 401-16987-0287-033

Involved Employee

E 1

Employee # [redacted] | Last Name LEYBA | First Name ROBERT | M.I.

Sex: M | Race: H | Rank DEPUTY | Unit Assignment: EAST LOS ANGELES | Work Assignment (Unit #, Module, etc.): 21

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: 7-8 HRS | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: [redacted] | Height: 6' 1" | Weight: 160

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I.

E __

Employee # | Last Name | First Name | M.I.

Sex: | Race: | Rank | Unit Assignment: | Work Assignment (Unit #, Module, etc.):

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: | Height: | Weight:

Range Qualification Date: | PPC Qualification Date: | Laser Training Date:

Certified with Weapon Used? ☐ | Patrol Certification? ☐ | Certification Unit: | Prior Shootings? ☐ | Number of Prior Shootings:

Field Training Officer Emp # | Last Name | First Name | M.I.

Field Training Officer Emp # | Last Name | First Name | M.I.

E __

Employee # | Last Name | First Name | M.I.

Sex: | Race: | Rank | Unit Assignment: | Work Assignment (Unit #, Module, etc.):

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: | Height: | Weight:

Range Qualification Date: | PPC Qualification Date: | Laser Training Date:

Certified with Weapon Used? ☐ | Patrol Certification? ☐ | Certification Unit: | Prior Shootings? ☐ | Number of Prior Shootings:

Field Training Officer Emp # | Last Name | First Name | M.I.

Field Training Officer Emp # | Last Name | First Name | M.I.

Officer Involved Shooting
Suspect Information

URN: 401-16987-0287-033

Suspect Information

S 1

Last Name: HOWARD		First Name: MICHAEL	M.I.: L.
AKA Last Name:		First Name:	M.I.:
Sex: M Race: W	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone:	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 47 D.O.B. 01-01-55	Height: 6' Weight: 220	FBI #:	CII #:
Booking #: 7132643	Primary Charge: 245 (C) PC	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? ☐
Vehicle Make: BUICK		Model: RIVIERA	Year: [redacted]

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		NONE
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]

INVESTIGATIVE SUMMARY
DEPUTY INVOLVED SHOOTING
SUSPECT HIT
IAB SH 2053430
URN: 401-16987-0287-031

On Monday, December 31, 2001, Lieutenant Karyn Mannis, Sergeants William Hines, and Michael Berg of the Internal Affairs Bureau responded to 5935 East Whittier Boulevard, East Los Angeles, regarding a Deputy Involved Shooting involving East Los Angeles Station personnel. Lieutenant Larry Lincoln, Sergeant Joseph Purcell and Investigators Philip Guzman, Stephen Weireter and Antoinette Martinez from Homicide Bureau were on scene to conduct the criminal investigation.

The summary of this incident is based on information obtained from interviews of the involved employees and witnesses, whose individual statements are contained in the Homicide Bureau case package. **Refer to Exhibit A**

INVOLVED PERSONNEL:

LEYBA, Robert A., Deputy, #[redacted]
East Los Angeles Station
Field Operations Region I

EMPLOYEE WORK HISTORY:

LEYBA, Robert A.

Date of Employment:	April 10, 1996
Date assigned to Patrol:	[redacted]
Completed Patrol Training:	[redacted]
Prior Shooting Incidents:	[redacted]
Prior Founded Force Incidents:	[redacted]

SUSPECT:

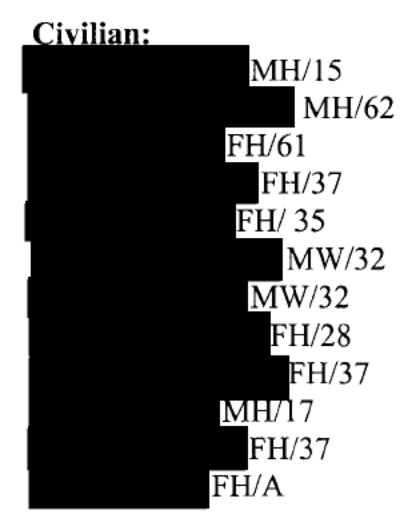
HOWARD, Michael Lynn M/W/47

At the time of the incident, Suspect Howard was on [redacted] He had no other criminal record prior to this incident. Additionally, Suspect Howard appears to be the [redacted]

WITNESSES:

Sworn:
None

Civilian:



[redacted] MH/15
[redacted] MH/62
[redacted] FH/61
[redacted] FH/37
[redacted] FH/ 35
[redacted] MW/32
[redacted] MW/32
[redacted] FH/28
[redacted] FH/37
[redacted] MH/17
[redacted] FH/37
[redacted] FH/A

ADDITIONAL INTERVIEW (Not a Witness)

[redacted] ([redacted] of Suspect Michael Howard)

INJURIES:

Suspect Howard drove away from the scene. On January 1, 2002, Officers from the Long Beach Police Department arrested Suspect Howard at [redacted] The Officers noticed a fresh injury to the right side of his forehead. The suspect was transported to Saint Mary's Hospital for treatment. The Emergency Room Doctor, Doctor Lawrence treated the suspect for a minor wound and cleared him for booking. It appears that the injury was caused from flying glass. **Refer to Exhibit A, Page 166**

PHYSICAL EVIDENCE:

Refer to Homicide investigation book- **Exhibit A, Pages 56 through 66**

INVESTIGATOR OBSERVATIONS:

The location of the shooting was at 5935 E. Whittier Boulevard, East Los Angeles. The incident occurred in an alley, north of Whittier Boulevard and intersecting Leonard Avenue. It is between a business and a residential area. There were tire marks in the alley, running toward Leonard Avenue. There were pieces of a wooden fence post on the ground near the alley and the east side

of Leonard Avenue. A pair of scissors and a clump of hair was also on the ground in the alley, just east of Leonard Avenue. **Refer to Exhibit A, Page 63-Detailed narrative of the scene and Exhibits E through M-Photographs of the area**

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Leyba fired four rounds from his duty weapon: **Beretta 9mm Luger Caliber, Model 92FS, double action semiautomatic pistol, Serial Number BER**[redacted]

The weapon was examined, test fired, and found to be functional by Firearms Examiner Jeff Walley.

Refer to Exhibit B- Firearms Examiner Report

WEAPONS USED BY SUSPECT:

1995 Buick Rivera, Gray, Ca. License # [redacted] **Refer to Exhibit A, Page 18-CHP555 and Exhibit N -Photographs of the suspect's vehicle**

PROPERTY DAMAGE:

The suspect's car was damaged by three bullet holes in the windshield and one in the top of the driver's door frame. The car lost its front bumper and was damaged as it left the scene. Two fence posts from [redacted] Leonard Avenue were damaged by the suspect's car. Risk Management Bureau responded and was on-scene. **Refer to Exhibit N-Photograph of the suspect's vehicle and Exhibit I- Photographs of damage**

CRIMINAL INVESTIGATOR/CHARGES FILED:

Homicide Bureau Detectives:
SERGEANT JOSEPH PURCELL #[redacted]
INVESTIGATOR PHILIP GUZMAN #[redacted]

On January 3, 2002, Investigators met with Los Angeles County Deputy District Attorney Scott Carbaugh at the Long Beach Court. Deputy D.A. Carbaugh reviewed the facts of this case and agreed to file six counts of 211 P.C.-Robbery, one count of 288(a) P.C.-Lewd act upon a child, and one count of 245(c) P.C.-Assault upon a peace officer. Bail was set at $500,000.

Los Angeles Superior Court Case No. NA051457

On April 3, 2003, Michael Howard plead guilty to the charges and was sentenced to eight years in prison.

LIGHTING AND WEATHER CONDITIONS:

This incident occurred during morning hours. The weather was cool and cloudy.

INVOLVED EMPLOYEE'S STATEMENTS:

DEPUTY ROBERT LEYBA

Deputy Leyba told Homicide investigators that at the time of the incident, he was working as a one-man unit, Unit 21, and started his shift at [redacted] hours. Unit 21 is assigned to the City Terrace area.

> **IAB Note:** Deputy Leyba is assigned to Temple Station. He was [redacted] at East Los Angeles Station and had been working a one-man car for the past two months.

At about 0735 hours, he drove to East Los Angeles District Court to check in on a court appearance. After checking in, he was told he could leave and return at 0930 hours.

Deputy Leyba left court and started driving to John's Restaurant on Whittier Boulevard, just west of Garfield Avenue. He was driving eastbound in the number one lane of Whittier Boulevard. As he approached Leonard Avenue, he saw a male near the northeast corner of the intersection, standing next to a pay phone. The male had his left arm around a female's neck and was pulling her head back. Deputy Leyba described the action of the male as a "choke hold." It appeared to Deputy Leyba that the male was either assaulting or robbing the female. The female was struggling with the male. **Refer to Exhibit E-Photographs of phone where victim was attacked**

Deputy Leyba immediately turned northbound onto Leonard Avenue and stopped about fifteen feet behind the male and female. The suspect turned and looked directly at Deputy Leyba, then started to run northbound on Leonard Avenue. Simultaneously, as Deputy Leyba ordered the suspect to stop, he started to get out of his patrol car. The suspect ignored the order and continued to run northbound. Deputy Leyba shut his door and drove after the suspect, again ordering him to stop and show his hands. Deputy Leyba could see an object in the suspect's left hand, however, he could not determine what it was, because the suspect was "moving really fast."

The suspect ran northbound and cut into the north alley (west/east alley which parallels Whittier Boulevard) behind the market. Deputy Leyba pulled up into the "mouth of the alley" and stopped half way into the alley. The rear of his patrol car remained on Leonard Avenue. **Refer to Exhibits F through M-Photographs of the area**

The suspect ran to a car which was parked in the alley, about thirty to forty feet from Leonard Avenue. The car was offset to the south side of the alley and facing west.

IAB Note: At this point in the interview, the tape stopped, apparently due to a malfunction. The following is a synopsis of Homicide's interview with Deputy Leyba. **Refer to Exhibit A, Page 45 through 47**

The car's engine was running and the driver's door was ajar eight to nine inches. The suspect, still holding an unknown object in his left hand, got into the driver's seat.

Deputy Leyba got out of his car and ordered the suspect to stop. There was a van also parked in the alley. Deputy Leyba started to walk toward the van for cover. He also attempted to put out a broadcast, however, he was on the "direct" channel. **Refer to Exhibit K-Photographs of the southbound view of the alley, showing the van**

Deputy Leyba said that he felt unsafe in the position where he had stopped his patrol car, which was head to head with the suspect. That was the reason that he started toward the van for cover. As Deputy Leyba crossed in front of his patrol car, the suspect turned his car toward Deputy Leyba and accelerated. He could hear the suspect's engine race. The suspect drove his car directly at Deputy Leyba. Deputy Leyba had no time to return to his patrol car or take cover behind the van. Deputy Leyba said he felt he had nowhere to go and he believed that the suspect was going to run over him.

As Deputy Leyba ran toward the van, he fired four rounds from his weapon at the suspect's windshield. The suspect was about ten feet away when he fired. Deputy Leyba believed that the initial distance between his patrol car and the suspect was about twenty five feet.

Deputy Leyba said that after he fired at the suspect, the suspect's car stopped abruptly. The suspect's car then backed up at a high rate of speed. The car hit a house on the north side of the alley and appeared to get stuck for a moment. As the suspect hit the house, Deputy Leyba heard the suspect yell, "You hit me! You shot me!" He also saw the suspect's left arm come out the driver's side window and drop something on the ground. **Refer to Exhibit O-Photographs of the suspect's scissors and the victim's hair**

Deputy Leyba believed he heard the suspect changing gears. He continued to order the suspect to stop. The suspect backed up again and appeared to hit a truck, however, Deputy Leyba was not sure.

The suspect started toward Deputy Leyba again, but since the first shots had no effect and he was able to reach the van for cover, Deputy Leyba did not feel compelled to fire at the suspect again.

The suspect then drove at a high rate of speed near the van and over the east sidewalk and off of the east curb, out onto Leonard Avenue. **Refer to Exhibit L-Photographs of the suspect's escape route**

IAB Note: In Exhibit A on Page 47, Homicide investigators noted a statement by Deputy Leyba which was made off tape. It reads, "He said his adrenaline had pumped so high during the incident he could barely speak on the radio while he was

searching for the suspect. He said the adrenaline gave him a stomach ache and he felt like throwing up. He still had a stomach ache nine hours later, when investigators were interviewing him. He told investigators he was going to have to go on a long run to relieve the stress of the incident. **Refer to Exhibit A, Page 47**

PRELIMINARY HEARING TESTIMONY

Deputy Leyba testified during the Preliminary Hearing of this incident on July 10, 2002 at Long Beach Court. In his testimony, Deputy Leyba related that when he pulled into the mouth of the alley, there was room on the right side of his patrol car for cars to pass through. He said his driver's door hit some bushes on the north side of the alley. When asked if his door opened all the way, Deputy Leyba answered, "No, it actually didn't open that far because I hit the bushes. Maybe if I would have kicked it forcefully, but it actually hit the bushes." The front of the suspect's car was approximately twenty-five to thirty feet away from the front of Deputy Leyba's patrol car.

> **IAB Note:** Later during his testimony, Deputy Leyba said that he stopped his patrol vehicle before entering the alley. He stopped before the power pole. Investigators visited the location and determined that a car parked with the driver's door opened and touching the bushes would had to have been parked further into the alley than described by Deputy Leyba. During his interview with IAB, Deputy Leyba said he didn't know why, during his preliminary testimony, he said, "I always stop before the pole." He thought maybe a word was missing from his testimony. He emphasized that he parked on the north side of the alley near the bushes.

Deputy Leyba said that he felt he was in an unsafe position when he got out of his patrol car, so he immediately ran between the front of his car and the suspect's car. The suspect was already in the car before Deputy Leyba exited his patrol car. The suspect revved his engine and started coming forward toward Deputy Leyba. The suspect could have gone straight out, but he turned his wheels directly at Deputy Leyba and at this point, Deputy Leyba said he felt that the suspect was "actually going to try to run over [him] and kill [him]." Deputy Leyba then fired four rounds at the suspect.

After Deputy Leyba fired at the suspect, the suspect abruptly stopped his car and "threw it in reverse." The suspect's car came within ten feet of Deputy Leyba before going in reverse.

> **IAB Note:** Later during his testimony, Deputy Leyba said that when he fired the first round, the suspect was about ten feet away. He then said that the closest distance the suspect came to him before he stopped was about "a foot and a half." The suspect then put the car in reverse.

Deputy Leyba continued to run in an southeast direction toward the cover of a van that was also parked in the alley. **Refer to Exhibit R - Diagram of Scene**

While driving in reverse, the suspect hit a house and a truck that was in the alley.

IAB Note: The house and truck belonged to Witness [redacted] said that his truck was parked facing east and on the south side of the alley. The rear of [redacted] truck was approximately sixty feet east of the east curb line of Leonard Street.

After the suspect hit the house and truck, he "accelerated at a high rate of speed" in Deputy Leyba's direction. Deputy Leyba said that since the rounds he fired at the suspect had no effect and since he had the opportunity to get out of the suspect's way, he let him go by. The suspect drove off the curb and southbound on Leonard Street. **Refer to Exhibit P-Reporter's Transcript of Preliminary Hearing (07-10-02) for a complete transcription of Deputy Leyba's testimony**

IAB INTERVIEW OF DEPUTY LEYBA

IAB Note: Due to discrepancies between Deputy Leyba's statements and several witness statements, and statements with Homicide investigators and statements made during the Preliminary Hearing, Deputy Leyba was interviewed on March 26, 2003, at Internal Affairs Bureau by Sergeants William Hines and Elier Morejon. Also in attendance was Richard Shinee, Attorney from Green and Shinee.

At the beginning of the IAB interview, Deputy Leyba indicated on a copy of the crime scene diagram the position of his patrol car and the position of the suspect's car just prior to the shooting. Deputy Leyba indicated that his patrol unit was headed eastbound on the north side of the apron of the alley. He indicated that the suspect's car was headed westbound on the south side of the alley and about twenty-five to thirty feet away. The two vehicles were off-set; not directly lined up. **Refer to Exhibit R-Crime scene diagram marked by Deputy Leyba**

IAB Note: In his interview with Homicide investigators, Deputy Leyba said his patrol car was "head to head" with the suspect's car and he felt that the suspect had sufficient room in the alley around the driver's side of the patrol unit for the suspect to escape. During the IAB interview, Deputy Leyba explained that he meant the two cars were facing each other, but not directly in line with each other. They were off-set. Regarding the sufficient room on the driver's side of the patrol car, Deputy Leyba explained that he might have erred when he talked to Homicide investigators or perhaps the investigator made an error in the summary.

The position of Deputy Leyba's patrol car as he indicated in the alley shows that the rear of his patrol car was actually on Leonard Street. During his Preliminary Hearing testimony, Deputy Leyba said that his driver's door actually touched the bushes on the north side of the alley. If the patrol car's door did in fact touch the bushes when opened, the rear of the patrol unit could not have been on Leonard Street. When asked about this discrepancy, Mr. Shinee answered for Deputy Leyba saying that it was just a "state of mind" that Deputy Leyba recalled that his car door hit the bushes, however, he did not recall which part of his door hit the bushes.

Additional IAB Note: The crime scene diagram (Exhibit R) shows [redacted] pickup truck further west then it actually was at the time of the incident. The pick up truck was about fifteen feet east of its position shown in the diagram.

Deputy Leyba related that he did not consider staying inside his patrol car instead of placing himself between his car and the path of the suspect's car. Deputy Leyba said he was [redacted] to always get out of the car because it is "like a coffin." He recalled thinking that he needed to get out of the car. Regarding running between the two cars, Deputy Leyba said he just looked forward at the suspect and possibly had "tunnel vision" when he was focused on the suspect. He remembered thinking that he needed to get to cover. He saw the van and ran to the van, even though he had to run between the two cars. He did not recall if he considered going behind his patrol car for cover since the incident happened so fast. He also did not recall if he considered backing up and away from the suspect.

IAB Note: Deputy Leyba said that at the time of the incident, he did not realize that the suspect was the [redacted]

Deputy Leyba felt that he was not blocking the suspect's path and felt that the suspect had room to come straight out of the alley.

Deputy Leyba did not initiate a broadcast of the incident until he got back in his patrol car and the suspect left the scene. He did not recall the content of his broadcast. He had earlier attempted a broadcast on his hand held radio just after he fired his weapon, however, he was on "direct" and the broadcast did not go out. Deputy Leyba said he did not have an opportunity to initiate a broadcast earlier when he first saw the suspect grabbing the victim.

Deputy Leyba said he recalled hearing the engine revving and the tires screeching. He agreed that screeching tires make the same sound either forward or in reverse. Deputy Leyba said he was "one hundred percent sure" that the first movement of the suspect's car was forward. When Deputy Leyba fired at the suspect, the suspect's car was moving forward. Deputy Leyba was yelling commands at the suspect from the time he first encountered the suspect until after he fired at the suspect.

Deputy Leyba's statements regarding the shooting sequence of events were the same as his previous statements to Homicide investigators and during the Preliminary Hearing. He did not recall how many shots he fired at the suspect. After the incident, Deputy Leyba learned he fired four rounds.

Regarding the statements from witnesses who said they first saw the suspect's car go in reverse, then they heard gunshots, Deputy Leyba said that that was not what happened. He reiterated that the car first started moving toward him and he then shot at the suspect, who then stopped and then backed up, hitting the house and truck.

IAB Note: Please note the location of the glass debris from the suspect's car (driver's side window), apparently caused by one of the rounds fired by Deputy Leyba. **Refer to Exhibit G-Photographs of alley and Exhibit Y-Crime Scene Diagram** Also note the location of the shell casings. **Refer to Exhibit Y- Crime Scene Diagram**

When asked if he recalled making a comment to Detective Guzman while in court regarding this possibly being determined a "bad" shooting or "against policy," Deputy Leyba said he could not recall making a comment like that.

IAB Note: In an interview with [redacted] of the suspect, [redacted] said he overheard Deputy Leyba say he had concerns about the findings of the shooting review. **Refer to [redacted] interview under Witness Statements**

WITNESSES STATEMENTS:

Sworn:

IAB Note: There were no sworn witnesses to this shooting, however, Deputy Joseph Jakl, from Traffic Services Detail, was interviewed due to his experience in Traffic Collision Investigations. He was interviewed at the Internal Affairs Bureau on May 7, 2003. His interview was tape recorded and summarized as it relates to this case as follows:

DEPUTY JOSEPH JAKL

Deputy Jakl was shown Exhibits S through X. It was Deputy Jakl's opinion that the tire marks depicted in Exhibit S were made by a tire going in reverse. He further noted that the front of the suspect's car on the passenger's side, struck the wall, leaving debris (metal trim and part of a headlight assembly) at the area of impact. The rear of the suspect's car was not damaged by impact. Only the driver's side rear area received very minor damage from paint transfer. **Refer to Exhibits S through X**

Civilian:

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident he was asleep in his bed at [redacted]. His bed is next to a window which faces north out to the alley. **Refer to Exhibit J-Photographs of the northbound view of the alley**

[redacted] was awakened by the sound of screeching tires and a racing engine, then a "crash." He opened the curtain, looked out the window and saw a "police cop" standing in the middle of the alley, facing

east, pointing his gun and saying, "Put your hands up!" [redacted] then heard a car's tires screech. [redacted] could not see a police car. He thought the officer was pointing his gun at a car, but he said he "really didn't see it." [redacted] turned away from the window and looked inside toward his dad to tell him what was going on outside. He told his dad to "get down" and about five seconds later, [redacted] heard four or five gunshots. After the gunshots he heard tires screeching again. [redacted] said he never actually saw the car during the incident.

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident he was inside his house at [redacted]. He was washing dishes in his kitchen. The kitchen has a window facing south to the alley. **Refer to Exhibit K-Photographs of the southbound view of the alley and Exhibit H-Photographs of the westbound view of the alley toward Leonard Avenue**

While he was looking out the window, [redacted] saw a car pull up westbound in the alley. The car stopped in the alley, just east of Leonard Avenue. He saw the driver get out of the car and walk to the trunk. He took out a coat and used it to cover the rear license plate. He then closed the trunk. [redacted] recalled thinking that this was very suspicious activity. He then told his [redacted] what he had seen. The man then walked toward Leonard Avenue and [redacted] walked to the back bedroom.

[redacted] said he then heard "some firing and the car backing up." He explained the "firing" was four "gunshots," two in rapid succession, a short pause, then two more shots in rapid succession. He was away from the window at the time he heard the gunshots. When he heard the gunshots he ran to the window and pulled his [redacted] to the hallway toward the back room. He was in fear of the

shots coming in the window. Simultaneously, as he was pulling his [redacted] away from the window, he looked out and saw the police officer standing by a brown station wagon in the alley.

IAB Note: The brown station wagon was actually a brown van.

The officer had his gun pointed toward the north and was telling someone to stop and get out of the car. [redacted] did not actually see a car, but as he was pulling his sister away from the window, he saw a shadow, which he believed to be the same car, drive away toward Leonard Avenue. He never came back to the window.

[redacted] was specifically asked if he had heard anything strike his house during this incident. He said that he did hear something hit his house and then his parked truck. He was then asked if he heard that noise before or after hearing the gunshots. He said that it "must have been after." [redacted] said that he would not be able to identify the suspect because the incident happened so quickly.

On March 31, 2003, [redacted] was interviewed at his residence by IAB investigators, Sergeants William Hines and Henry Reyes. The reason for the interview was to establish the position of the suspect's car during the initial stage of this incident.

[redacted] related that on the morning of the incident, he looked out his kitchen window and saw the suspect's car near the mouth of the alley. What drew his attention to the car was the fact that the suspect was covering the rear licence plate to the car. [redacted] estimated that the suspect's car was approximately in the middle of the alley facing west. [redacted] stood at a position where the rear of the suspect's car was stopped. Investigators measured that distance and it was approximately twenty feet east of the east curb line of Leonard Street. He also recalled that the deputy pulled directly in front of the suspect's car, blocking the suspect's car.

> **IAB Note:** This position of the suspect's car, as recalled by [redacted] contradicts Deputy Leyba's position of the suspect's car. Deputy Leyba related that the distance between the front of his patrol car and the front of the suspect's car was approximately twenty-five to thirty feet. This would have placed the rear of the suspect's car approximately fifty-eight feet east of the east curb line of Leonard Street. **Refer to Deputy Leyba's interview**

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident she was inside her house at [redacted] She is the [redacted] of [redacted]

She was sitting at the kitchen table when her [redacted] told her that a guy outside in the alley looked suspicious because the guy had just covered the license plate of his car. Her [redacted] then said to her that the guy must know someone in the little house across the alley. The guy then walked around the corner. [redacted] said that she did not see the guy.

A short time later, [redacted] looked out the kitchen window and saw a deputy standing just outside the window in the alley. He had his gun drawn, facing east and telling a man in the car, "Get out of the car! Get out of the car!" The deputy was on the driver's side of the man's car and a short distance away. The next thing [redacted] heard was the car "screeching" and her [redacted] was telling her to get away from the window. As she moved away from the window, she heard four shots in "quick" succession and "things hitting." (Described as a sound of impact as if the car hit something) She later learned that the sound was from the car hitting the side of the house and her [redacted] truck.

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident she was inside her house at [redacted] Her house is about fifty feet [redacted] of the [redacted] house. She was standing by her kitchen window which faces south to the alley.

[redacted] heard four consecutive gunshots which caused her to look out her kitchen window. As she looked out the kitchen window, she saw a deputy standing outside in alley, west of her house. He was pointing a weapon at what she thought was a vehicle. She did not actually see a vehicle, but she could hear the vehicle "skidding" in the alley. A brick wall blocked her view, however, she said she heard the vehicle "skidding, trying to get away from the officer." Immediately after hearing the vehicle skid, [redacted] heard it hit her [redacted] truck and then she saw the truck move. She then heard it (the vehicle) hit the block wall. She then heard the deputy say, "Get out of the car!" She then turned away from her window. She later looked out, but did not see the deputy. Her [redacted] told her that the deputy had gone after the suspect.

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident she was inside her house at [redacted] She is [redacted]

She was standing in the hallway of her house when she heard a dog barking in the alley. She started to walk toward the front door, which faces Leonard Avenue. She stopped to put on her shoes and she heard a "muffled" "commanding voice." She could not understand what was being said. As she put her hand on the door knob, she heard "some noise" then she heard several shots. After the shots stopped, she heard a "banging" noise, which sounded like an "automobile or something." As the noise continued, she told her [redacted] to call her [redacted] and 911. She then opened the door.

She described the gunshots as four to seven shots in rapid succession. She described the banging noises as "something being hit very hard" and then "an automobile being hit." She added that it just "kept going, continuing, continuing like it was stuck." She agreed that the noises were similar to impact sounds, engines racing and tires squealing.

[redacted] later walked out and saw her [redacted] car (truck) was in an "awkward position" and the fence rail had been knocked off. She saw debris and car pieces on the ground. She also saw hair and scissors on the ground. She did not see the deputy.

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident he was driving a [redacted] truck and he was with his partner, [redacted] They were stopped eastbound at the red light on Whittier Boulevard at Leonard Avenue.

He saw a Sheriff's patrol car, also headed eastbound on Whittier Boulevard, make a left turn (northbound) on Leonard Avenue against the red light. [redacted] said that the patrol car was nearly struck by an oncoming, westbound vehicle. The patrol car turned right (eastbound) in an alley, just north of Whittier Boulevard. The patrol car stopped at an angle and blocked another car that was in front of him in the alley headed westbound. The deputy got out of his car, pointed his

gun at the other car and said, "Put your hands up!" "Get out of the car!" "Turn your car off!" [redacted] could not see the suspect, but he could see "a little bit of the front of the car." The car backed up and [redacted] "believed" it appeared to hit a wall "or something." The car hit twice, "trying to get away." The car then went toward the officer, but the officer's car was blocking the alley. The officer fired four or five shots. The car then went around the officer's car and off the curb.

[redacted] said, "I believe it looked like he was going towards the officer so the officer had to protect himself so I be...he shot his gun because the suspect was going to run him over."

> **IAB Note:** Later in the interview, [redacted] said that he could not see the car after it backed up. He said the deputy fired possibly three shots while standing next to the driver's side of the patrol car and the suspect's car was right in front of the deputy, "trying to run him over." The suspect then went around the deputy.

As the suspect drove off the curb, the car's bumper fell off. The suspect then drove westbound on Whittier Boulevard and made a left at the first light.

[redacted] described the suspect as a "Spanish guy, real low in the car." The suspect was about 55 to 60 years old with possibly gray hair. [redacted] noticed blood on the suspect's shirt. He did not actually see any injuries on the suspect. He said it happened "really quick." [redacted] said he was on the corner when the suspect left, and the suspect nearly hit him.

[redacted] said that since the deputy did not go after the suspect for at least fifteen seconds, he thought possibly that something was wrong with the deputy or was shot by the suspect. [redacted] ran to the deputy to check on him.

> **IAB Note:** Later in the interview, [redacted] said he needed to correct himself as to where he was as he witnessed the incident. He said that up to the time when he saw and heard the deputy order the suspect out of the car, he was in his truck (driver). He was stopped for the red light when he heard the gunshots, so he drove through the intersection and parked his truck on the south side of Whittier Boulevard, east of the intersection. He then ran across the street to see if the deputy was okay. He later said he stopped at the corner and never actually reached the deputy. He reiterated that he felt the deputy "took a long time" to chase the suspect. He thought the deputy was possibly in shock. He believed that the deputy never moved from next to his patrol car during the shooting. **(Several times during [redacted] interview, he used the phase, "I believe." It is possible that much of his statement is based on what he thinks happened and not actually what he witnessed.)**

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident he was in a [redacted] truck with his partner, [redacted] [redacted] was the passenger. They were stopped eastbound at the red light on Whittier Boulevard at Leonard Avenue. They had just pulled away from the south curb and were just over the limit line in the number two lane.

As they were waiting for the light to change, [redacted] saw a Sheriff's unit make a left (northbound) on Leonard Avenue, going through the red light. The unit then made a quick right turn in to the alley, blocking the entrance. The light on Whittier turned green and [redacted] told his partner to wait because "something might happen." [redacted] saw the deputy exit his patrol car.

> **IAB Note:** Later in the interview, [redacted] said that he did not actually see the deputy get out of his car. [redacted] said he didn't know if he blinked or turned his head at that time.

He also saw another car facing the deputy's car, about three to four feet away. [redacted] could only see the front end of the other car. The deputy was on the driver's side of the patrol car, between the two cars and facing the other car. The deputy had his gun drawn, moving eastbound toward the suspect's car. [redacted] said he could hear the deputy's voice, but since the truck was running, he could not hear what the deputy was saying, "but he definitely was yelling something."

At that point, [redacted] said that "It just seemed like time froze for a second or two, and then I could hear the gunshots, and I could see the deputy kinda like moving over." He further said that before he heard the gunshots, the suspect "must have put it in reverse, because [he saw] the front end of the car disappear[ed] for a second." When the car and deputy were out of view, [redacted] said that he could hear the "engine of the car roaring and it even sounded like he smashed into something." It appeared that the deputy was moving around toward the driver's side of the suspect's car, however, [redacted] was not sure since the deputy and the suspect's car moved out of sight. The deputy then came back into view from the same direction. He came back toward the front of the patrol car, between the driver's side of his patrol car and the wall. The car was coming at an angle toward the deputy and that was when the shooting took place. The deputy fired about four rounds. [redacted] said it was his opinion that the suspect "probably was trying to scare the deputy, like move out of my way or I'm gonna run you over." The car came "really close, down to a foot."

[redacted] said when the deputy fired it happened "pretty fast" and the only thing he didn't see was "the part where the deputy went from...from where he was standing the first time, when he threw it in reverse. I really didn't get a good look on how he got over on the...all the way on the other side...couldn't see that when they were backing up. What ever took place in there, I couldn't see. But I could hear the engine roaring, back and forth you know. And then when he came back, I'd say, probably two or three times he tried to back out." When the car was out of view, [redacted] could hear the engine roaring and the "sound like he crashed into something back there. And then all of a sudden, I look over and the deputy is back over here and the car, it seemed like it came right

at him, but he turned the last second." Simultaneously, the deputy fired four or five times. Immediately after the shooting, [redacted] said they pulled through the intersection and stopped at the south curb of Whittier Boulevard. [redacted] could still hear the suspect's car engine roaring. His partner jumped out of the truck and ran across the street. By the time [redacted] got out of the truck, he couldn't see the deputy. Suddenly the suspect's car was coming full speed, so [redacted] ran back to his truck. Once [redacted] returned from his truck, the suspect had already left the scene. [redacted] said about eight seconds later, the deputy went after the suspect.

[redacted]

[redacted] was the victim in this incident. Homicide Detective Philip Guzman interviewed [redacted] in Spanish. **For a complete synopsis of her interview refer to Exhibit A, Page 37**

The interview as it relates to the shooting incident is summarized as follows:

[redacted] told Homicide and Internal Affairs Bureau investigators that she was talking on the pay phone at the intersection of Whittier Boulevard and Leonard Avenue when she was attacked and her hair was cut off. After the attack, the suspect then fled northbound on Leonard Avenue. He was not able to run very fast.

As [redacted] remained near the pay phone, she saw the suspect turn right into the alley and disappear. She also saw a deputy in a patrol car turn into the alley and stop, blocking the entrance. The deputy got out of his car and say something similar to "stop." The deputy walked into the alley and out of her view. She could not see the suspect during this time. She did not recall seeing anything in the deputy's hands.

A short time later, [redacted] heard three to four gunshots. After she heard the gunshots, she heard a "crashing sound" and saw the suspect's car coming out of the alley and drive over the curb, since the patrol car was blocking the exit. The car continued south on Leonard Avenue and turned right on Whittier Boulevard, then drove out of view.

[redacted]

Homicide Detective Philip Guzman interviewed [redacted] in Spanish. **For a complete synopsis of her interview refer to Exhibit A, Page 39**
The interview as it relates to the shooting incident is summarized as follows:

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident that she was standing on the northwest corner of Leonard Avenue and Whittier Boulevard with two other people. She is a Jehovah's Witness and was passing out literature.

She saw the victim using the pay phone. She then saw the suspect attack the victim and grab her hair. She thought he was possibly stealing the victim's purse.

At the same time, [redacted] saw a patrol car on Whittier Boulevard facing east, stopped for the red light. The suspect ran north on Leonard Avenue. It appeared that the suspect had something wrong with his leg. She believed that the suspect had not seen the deputy yet. The suspect got into the driver's seat of a car that was parked in the alley. The car was parked as though he "wanted to leave the alley right away." The deputy drove to the alley and blocked the suspect's path with the patrol car. She was unable to see the suspect's car very well from her position.
The deputy got out of the patrol car with his gun in his hand and gave commands to the suspect. [redacted] could not tell what the commands were. The suspect put the car in reverse and backed up. [redacted] then heard "loud noises" as if the car crashed. The deputy moved forward toward the car and [redacted] then lost sight of both the deputy and the suspect's car. All she could see at this point was the deputy's patrol car. She thought the deputy had detained the suspect since he was "right there." A short time later, [redacted] heard four gunshots, and said she thought the deputy shot the suspect's tires.

[redacted] then directed her attention to the victim. She next saw the suspect drive out of the alley and she just wanted to get out of his way for her own safety. The suspect drove off the curb, southbound on Leonard Avenue, then disappeared westbound on Whittier Boulevard.

[redacted]

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident that he was standing near some vending machines on the northwest corner of Leonard Avenue and Whittier Boulevard. He was with his mom and another friend, "preaching."

He saw the victim using the pay phone on the other side of the street. He then saw the suspect attack the victim and cut her hair. He first thought the suspect was the victim's husband. [redacted] also saw a deputy in a patrol car at the intersection.

After the suspect cut the victim's hair, he went north on Leonard Avenue and into an alley. The deputy drove north on Leonard Avenue and pulled into the alley a short distance and stopped. The deputy got out of the patrol car with his gun drawn and pointed at the front of another car which was directly in front of the deputy's car. [redacted] could only see the front of the other car, and he did not see the suspect get into the other car. The deputy was saying, "Stop! Stay there!" [redacted] could not remember how many times the deputy said stop. After the deputy said stop, the "guy in the car, just pulled back, all the way back and I guess he crashed." [redacted] said he did not know what happened, since he could not see the car after it moved back. After the car moved back out of his sight, [redacted] heard three or four gunshots. [redacted] moved back out of view and did not see where the deputy was at this time. He was not sure if he heard the gunshots or the crash first.

After he heard the shots, [redacted] moved back into view since he thought that the deputy had the situation "under control." He then saw a gray car come out of the alley onto Leonard Avenue. The car then made a left on Whittier Boulevard and left on Simmons Avenue.

[redacted]

Homicide Detective Philip Guzman interviewed [redacted] in Spanish. **For a complete synopsis of her interview refer to Exhibit A, Page 42**

The interview as it relates to the shooting incident is summarized as follows:

[redacted] told Homicide and Internal Affairs Bureau investigators that at the time of the incident that she was standing on the northwest corner of Leonard Avenue and Whittier Boulevard with two other people.

She saw the victim using the pay phone. She then saw the suspect grab the victim's hair.

The suspect then walked away a few steps, then he started to run northbound on Leonard Avenue. She also saw a deputy drive northbound on Leonard Avenue. [redacted] thought the suspect started to run because he saw the deputy.

[redacted] saw the suspect get in a car that was positioned in the parking lot, in the alley behind the market. She said that the car "wasn't parked right." It was parked as though "he was in preparation of doing something." She then saw the deputy park his patrol car at the mouth of the alley, blocking the suspect's car. The deputy got out of his car "real quick" with his gun in his hand. The deputy ordered the suspect to stop. The car immediately went in reverse and [redacted] backed up out of view of the incident. She next heard four gunshots, however, she did not see the deputy or the suspect's car. She next saw the car come out of the alley, go south on Leonard Avenue, left on Whittier Boulevard and out of view.

[redacted] said there was a slight lag time before the deputy came out of the alley and went after the suspect.

> **IAB Note:** Although [redacted] and [redacted] said the suspect turned left on Whittier Boulevard, it appears that both meant to say west instead of left. All of the other witnesses related that the suspect turned right on Whittier Boulevard (west).
>
> Additionally, Witness [redacted] was interviewed at the scene immediately after the incident by E.L.A. Station Detective Silva. **Refer to Exhibit A, Page 15 for that interview**

[redacted]

[redacted] was interviewed by Homicide investigators on January 1, 20002. She lives at [redacted] which is on the [redacted] side of Leonard Avenue, just [redacted] of the alley where the shooting incident occurred.

[redacted] told investigators that at the time of the incident, she was home taking a nap on the couch in her living room. The couch was under a large window which faces east onto Leonard Avenue and the alley. She was awakened by the sound of four or five gunshots. She immediately got up and looked out the window and saw "the cop shooting." The deputy was facing east and standing near the fence at the north side of the alley. He had his gun in his hand. [redacted] did not see a car at that time.

> **IAB Note:** Later in the interview, [redacted] said that she did not see the deputy fire his gun. She heard the shots, then looked out and saw the deputy holding his gun. He did not fire while she was looking out the window.

While looking out, she heard the deputy say, "Put your hands up now!" She then saw a "blue" car come out of the alley, over the sidewalk and turn onto Leonard Avenue, toward Whittier Boulevard.

[redacted]

> **IAB Note:** [redacted] is the [redacted] of Suspect Michael Howard. Additionally, he is employed as a [redacted] for the [redacted]. [redacted] was not a witness to the shooting incident, however, the Internal Affairs Bureau received a complaint from [redacted] on August 9, 2002. In his complaint, [redacted] alleged several allegations of misconduct by deputies, including shooting an unarmed suspect and destruction of property during the search for [redacted] Michael Howard. The destruction of property complaint was forwarded to the Special Enforcement Bureau who conducted the search of Howard's residence. SEB is handling the complaint.
>
> [redacted] also expressed concerns about the shooting of his [redacted] and what he believes was "inconsistent" testimony by Deputy Leyba during the Preliminary Hearing. **Refer to Miscellaneous Documents for a copy of his complaint letter and copy of the SEB Search Warrant Package**

[redacted] was interviewed at the Internal Affairs Bureau on September 18, 2002, by Sergeants William Hines and Elier Morejon.

[redacted] related that he has attended most of the court hearings related to this case. He recalled attending the Preliminary Hearing at Long Beach Court during Deputy Leyba's testimony. **Refer to Exhibit P-Reporter's Transcript of Preliminary Hearing (07-10-02)**

Before Deputy Leyba testified, [redacted] was sitting in the front row of the spectator area. [redacted] related that he overheard Deputy Leyba talking to Detective Guzman, who was one of the investigators in the case. [redacted] said that Deputy Leyba "was extremely worried about the shooting, and the findings of the shooting board. He was concerned that they would find it to be a bad shooting." According to [redacted] Deputy Leyba's main concern was that there were two

or three witnesses that contradicted his testimony. [redacted] further explained that during Deputy Leyba's testimony, Deputy Leyba said that the suspect drove the car directly toward him, trying to run him over. He then fired four shots at the suspect and the car then stopped and backed up and hit a car. This would result in a scenario where someone should hear a car engine racing, shots fired, and then an impact of a vehicle. However, Deputy Leyba heard that the witnesses were saying that they heard shots fired, an impact, and then a car racing off. Also according to [redacted] Detective Guzman then told Deputy Leyba "not to worry about that, witnesses often get the events backwards when they testify about something and get confused and lose their memory."

> **IAB Note:** Detective Guzman was interviewed on April 3, 2003, and said that he did recall going to the Preliminary Hearing on this case where Deputy Leyba testified. Detective Guzman said he recalled having a conversation with Deputy Leyba where Deputy Leyba expressed concerns about the shooting. Detective Guzman did not recall the "specifics" of the conversation. Detective Guzman told him that it wasn't unusual to express his concerns. Detective Guzman felt that it was normal for any deputy sheriff that is involved in a shooting to have some concerns about the shooting. Detective Guzman told Deputy Leyba that he shouldn't be concerned about this shooting because he (Guzman) and his partner, Joe Purcell, had investigated the shooting and interviewed everyone involved in the case. It was their (Guzman's and Purcell's) belief that the shooting was justified and Deputy Leyba had no reason to be concerned.

[redacted] also related that he has talked to his [redacted] about the events of the shooting, and [redacted] (Suspect Michael Howard), although confused about some of the details of the shooting incident, gave him the following account of the incident:

> He (Suspect Howard) was running to get away from the deputy. He got into his car in the alley and the deputy pulled in front of him, blocking his way. The distance between the cars was about fifteen to twenty-five feet apart. The deputy got out of his patrol car and ran around the back of his patrol car and toward the front of his car. The deputy faced him with his gun drawn. At this point, Howard could not get away. He put the car in gear with his foot on the brake. He couldn't get past the deputy.
>
> The deputy yelled for Howard to put his hands up. Howard put his hands up and sat there for a second. He realized that the deputy was in front of him, the car was in gear and running and his foot was on the brake. Howard then thought that he better take the car out of gear. He was scared. He started to reach down to take the car out of gear, but then thought he better not move. At that point, the deputy fired one round through the windshield. When the deputy fired, he was standing "close" in front of Howard's car and a "little to the left." Howard looked at the deputy and saw that the deputy had a "horrified, confused look on his face." Howard immediately thought, "I better not just sit here and let him shoot me, I'm going to get out of here." He put the car in reverse and backed into something, either a pole or a car. As he was backing up, the deputy was shooting at him and

"glass was flying." Howard then drove forward and to his left, over the sidewalk, and off the curb. He did not remember how many rounds were fired, but one hit him in the right temple.

[redacted] reiterated that [redacted] Michael was confused about some of the details of the shooting incident.

SUSPECT STATEMENTS:

Suspect Howard invoked his constitutional right to remain silent and was not interviewed by Internal Affairs Bureau investigators. In a statement to his friend, [redacted] Howard said that the police had tried to "box him in" after he cut the girl's hair. The officer was right in front of his car and got out with his gun drawn and pointed at him. Howard said he thought his car was in drive, but it was in park. Howard stepped on the accelerator and made the engine rev, as he tried to get away. At that point, the officer shot at him four times. The officer then brought his gun down and stared at him. Howard then drove past the officer. **Refer to Exhibit A, Page 168**

> **IAB Note:** Public Defender Gregg Hayata is Suspect Howard's attorney. I left several phone messages for Mr. Hayata to call me to discuss the possibility of interviewing Howard. At the time of this report submitted, I had not heard from Mr. Hayata.

MISCELLANEOUS

The District Attorney's Office concluded that Deputy Leyba acted lawfully in self-defense. **Refer to Exhibit Q-District Attorney's Letter of Opinion on Deputy Involved Shooting**